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AUG 7 2001

**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of
Wen-Chen Su et al.
Application No. 09/918,652
Filed: March 22, 2000
Attorney Docket No. AVERYRC.5CPCP1

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: DECISION GRANTING PETITION
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This is a decision on the petition filed June 21, 2001, requesting that a patent application of Wen-Chen Su et al. (attorney docket No. AVERYRC.5CPCP1) be accorded a filing date of March 22, 2000 as an application under 37 CFR 1.53(b).

Petitioners allege that the original application papers were deposited in Express Mail service in accordance with the procedures set forth in 37 CFR 1.10 and that the application is entitled to the date of deposit in Express Mail service as the filing date. In support, petitioners have supplied a copy of the original application papers showing the Express Mail label No. EL541282517US thereon and a copy of Express Mail label No. EL541282517US clearly displaying the March 22, 2000 date applied thereon by the United States Postal Service.

It is noted that the Express Mail package containing the original application papers was mistakenly addressed to the "Assistant Commissioner for Trademarks" instead of the address specified at 37 CFR 1.1(a)(1) for patent correspondence. Accordingly, the \$130.00 petition fee is still required.

The petition is also accompanied by a copy of petitioners' postcard receipt showing a "TM Mail Rcpt" date stamp acknowledging receipt in the Office on March 22, 2000 of, inter alia, 56 pages of specification including 20 claims and 17 sheets of drawings.

Based on the evidence above, the petition to accord the application a filing date of March 22, 2000 is granted. After mailing of this decision, the required \$130.00 petition fee will be charged to deposit account No. 11-1410 as authorized in the petition.

The original application papers for the AVERYRC.5CPCP1 application cannot be located. The petition and the duplicate papers received June 21, 2001, have been placed in a new file wrapper, and assigned application No. 09/918,652. The duplicate papers will be used for examination purposes.

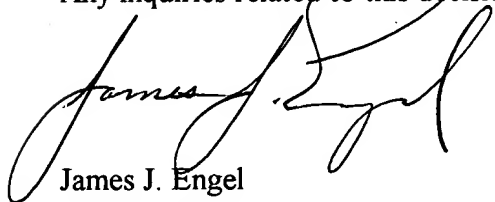
Applicants should notify this office if the original application papers are subsequently discovered in the Office so that the present duplicate file can be merged with the original papers and any duplicate filing fee refunded.

A review of the record reveals that filing fee has not been paid in this application. Further, the application still does not include an oath or declaration in compliance with 37 CFR 1.63. Therefore, the filing fee and an oath or declaration in compliance with 37 CFR 1.63, identifying the specification to which it is directed (preferably by reference to the above-identified application Number and filing date) are required. The surcharge under 37 CFR 1.16(e) is also required.

Applicants are given TWO MONTHS from the date of this decision to file the filing fee and the oath or declaration together with the surcharge required above in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The response should be directed to the attention of Office of Initial Patent Examination.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 22, 2000, using the copy of the application papers filed June 21, 2001, and the oath or declaration filed in response to this decision.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-5106.



James J. Engel
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy